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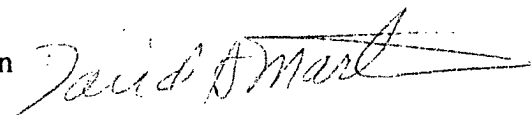
CONFIDENTIAL
(ALM 1111)

United States Government

MEMORANDUM**Office of
Government Ethics**

Subject: Disposal of SF 278's and Confidential Financial Disclosure Reports

JUL 23 1985

From: David H. Martin
Director

To: Designated Agency Ethics Officials

With very limited exceptions section 205(d) of the Ethics in Government Act, as amended, (5 U.S.C. App. 4 § 205(d)) and 5 C.F.R. 734.603(f)(1)) requires that a public financial disclosure report collected pursuant to the Act shall after 6 years from the date of receipt be destroyed by the collecting agency unless the report is needed in an ongoing investigation.¹ Because the first annual reports were due May 15, 1979, a date six years ago, many of the reports you now have on file are subject to this statutory disposal requirement.

To assist you with this procedure, we offer the following guidance:

1. The statute indicates the 6 year period begins at the date of the report's receipt. Because many individuals requested and received extensions in 1979, you should be careful to note each report's receipt date before actually destroying it. You may wish to consider beginning your destruction process in September when most reports will be "of age." If you do decide to wait, under no circumstances should you allow a report filed more than 6 years ago to be made available to the public. There is then no legal authority to release financial information.

2. OPM has established a government-wide system of records for both the public and confidential financial disclosure reports. The system for the confidential reports indicates that the reports will also be destroyed after 6 years. This 6 year retention period has not always been the case and was the subject of a system change within the past two years. If your agency has confidential reports that are 6 or more years old, you should follow the same destruction procedures used for public reports.

3. Both government-wide systems of records indicate that destruction of these reports can be by shredding, burning or erasure of discs. All Federal agencies are required to follow regulations issued by GSA governing the methods of disposing of records (44 U.S.C. 3314). See 41 C.F.R. 101-11.406-9 for methods of disposal and check with your administrative offices to see which method can be most easily used by you for these reports.

¹Reports of individuals nominated by the President but not confirmed by the Senate and candidates for President and Vice President who were not subsequently elected are required to be destroyed after a period of a year. The year begins after the individual either is no longer under consideration by the Senate or is no longer a candidate for nomination or election to the office of President or Vice President.

You may find that in addition to the disclosure reports themselves, you have kept other information necessary for the review of the report. Such material might include outside activity approvals and notes on the business interests of non-public corporations or other business entities. These materials need not be destroyed if they are necessary to understand or approve reports which are less than 6 years old or other elements of the ethics program.

If you have any questions concerning actual destruction procedures please seek assistance from your administrative offices. We are not experts on shredding, burning or erasure of discs and are working through our administrative offices just as we are asking you to do. If you have questions concerning the actual requirements of the law, please feel free to contact us.